HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION NO. 21992 of 2005

Smt Raisunisa Begum W/o Mohd. Khajamia, Muslim, aged 42 years, Occ.Business, R/o H.No. 7-63/1, Station Road, Chegunta Village and Mandal, Medak District.

...Petitioners

AND

The Revenue Divisional Officer, Medak Division, Medak and others.

....Respondents

HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION NO. 21992 OF 2005

ORAL ORDER :

Heard both sides.

2. By means of filing this Writ Petition, under Article 226 of Constitution of India, petitioner assails the correctness of the order passed by the first respondent - Revenue Divisional Officer, suspending the authorization of the petitioner as a Fair Price Shop Dealer bearing Shop No.2 of Chegunta Mandal, on the complaint made against her, pending enquiry.

3. On the complaint made by the card holders on 10.7.2004 against the petitioner to the Collector, Medak District, matter was got enquired by the Mandal Revenue Officer, Chegunta, and after due enquiry, the Mandal Revenue Officer submitted his report stating that the petitioner is selling the commodities on higher price than the rates prescribed by the Government and she is selling her own kirana items linking with essential commodities on conditional basis and when the cardholders come to the shop to receive the commodities she is under weighing the commodities. Therefore, a show cause notice was issued by the Revenue Divisional Officer, Medak leveling certain charges and after due enquiry and after submission of explanation of the petitioner, the authorization of the petitioner was cancelled vide proceedings dated 16.8.2004. Questioning the said proceedings, petitioner filed an appeal before the Joint Collector, Medak District. By an order dated 18.2.2005 he remanded the matter back to the first respondent-Revenue Divisional Officer, Medak Division, directing him to pass a speaking order, after hearing. On remand, the Revenue Divisional Officer, Medak Division, issued a show cause notice dated 10.3.2005 and after hearing the cardholders and after conducting enquiry passed an order dated 29.7.2005 revoking the cancellation order dated 16.8.2004, passed by him, and warned the petitioner by imposing a penalty of 1,000/- to be paid within seven days from the date of receipt of a copy of that order.

4. Questioning the subsequent proceedings issued by the Revenue Divisional Officer, Medak, suspending the licence of the petitioner, on the complaint made by the Villager of Chegunta dated 10.7.2004, the present Writ Petition is filed contending that once the cancellation orders are restored by imposing penalty of Rs. 1,000/-, again suspending the licence on the very same complaint by the Revenue Divisional Officer, Medak, is illegal and contrary to law. Once the proceedings culminated by imposing fine, the authorities cannot interfere with the same.

5. Pursuant to the Rule Nisi, the Revenue Divisional Officer, Medak, filed counter affidavit admitting the initiation of proceedings and its culmination by imposing fine of Rs. 1,000/-. But it is further stated that even on such imposition of fine, all the cardholders made a representation dated 28.9.2005, and added to that all

the card holders staged 'Dharnas' in front of Mandal Revenue Officer's Office with a demand to remove the said dealer from the fair price shop dealership and also staged 'rastha-rokos' on the National High Way No. 7 at Chegunta on 12.9.2005, against the indifferent attitude of fair price shop dealer and a news item was also published in the local news-papers, the clippings of the same are enclosed herewith for perusal. It also stated that in the interest of public, a date for enquiry in the village has been fixed on 28.9.2005 and the dealer was informed to be present for the enquiry and the matter has been enquired in the village on 28.9.2005 at Gram Panchayath Office, Chdgunta, in the presence of about 200 cardholders and village elders and statements of villagers/cardholders were recorded. Some of the consumers have given their sworn statements confirming the allegations and have further stated that the Fair Price Shop dealer is trying to sell certain 'kirana' items of her own kirana stores linked with the essential commodities. It is further stated that basing on the enquiry, the orders have been issued vide proceedings dated 30.9.2005, suspending her authorization temporarily. it was made clear that in the above proceedings under reference the date of complaint has been shown as 10.7.2004 instead of 1.9.2005 which is a typographical mistake.

6. In view of the same, the submission of the learned counsel appearing for the petitioner that once the petitioner is exonerated from the charges he cannot be subjected to any enquiry on the complaint made by the cardholders, does not hold water since the cardholders are receiving the essential commodities every month and for any instances at the time of distribution, separate cause of action will arise.

7. If any complaint is made by the cardholders against the petitioner even after the earlier order of suspension was revoked by the Revenue Divisional Officer, on the directions issued by the Joint Collector, Medak, imposing fine of Rs. 1,000/-, the authorities are not precluded to enquire into the allegations which are made subsequent to the revocation of suspension order. Since the charge memo has already been issued to the petitioner the petitioner can participate in the enquiry of submitting her explanation to the charges leveled against her and on such submission of explanation, the authorities can proceed with the said enquiry and can pass appropriate orders. Pending completion of enquiry pursuant to the charge sheet, it is always open for the Revenue Divisional Officer, Medak, to see that the distribution of essential commodities to the cardholders should be done under the supervision of his nominee, who will be present at the time of distribution and can restrain the husband of the petitioner from participating in the distribution of the essential commodities, except the petitioner herself under the supervision of the

nominated persons of the Revenue Divisional Officer, Medak, until the enquiry is completed, no other person will be permitted to distribute the essential commodities. Or else, the petitioner is not wiling to distribute the essential commodities under the supervision of the nominated person, the Revenue Divisional Officer, Medak, can make alternative arrangement for distribution of essential commodities to the other fair price shop dealer till the enquiry into the said allegations have been completed and appropriate orders are passed.

8. With the above observation, the Writ Petition is disposed of. No order as to costs.

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A. GOPAL REDDY, J

Date: 27.3.2006
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